

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

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OWEN W. BARNABY,  
Plaintiff- Appellant

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)

Vs.

) Hon. Robert J. Jonker  
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL  
Defendants- Appellees

) Case No. 1:22 -CV- 1146

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**MOTION FOR CLARIFICATION FOR,  
NEW DEFENDANT'S SUMMONS (ECF No.147)**

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Comes now, Plaintiff In Pro Se, with his Motion for Clarification for New Defendant's summons-(ECF No.147). First, on March 18, 2024, Plaintiff filed his Motion (ECF No.146), to Amend his Third Amended Complaint-(ECF No.36), in adherence to the Honorable Magistrate Judge Berens' Order-(ECF No.140) and Fed. R. Civ. P. 15(a)(1)(2). The new amendment, entitled, Plaintiff's Fourth Amended Complaint (ECF No.145), contains one new Defendant, Ms. Sharon Tyler, the Clerk of Berrien County Government.

Plaintiff filed with the District Court's Clerk the Summons-(ECF No.147) request for Defendant –Sharon Tyler, Clerk of Berrien County Government, on March 18, 2024. However, the District Court Clerk had shared with the Plaintiff that, the Court has directed the Clerk not to issue the Summons-(ECF No.147), for the Defendant –Sharon Tyler, Clerk of Berrien County Government. Given that, the Defendant –Sharon Tyler, Clerk of Berrien County Government, had willfully rejected or refused process of service of Fifteen Summonses with Fifteen Copies of Third Amended Complaint-(ECF No.36) on behalf of Defendant Berrien Government and its Thirteen officials, ECF No.159) as follows:

**1)**, Defendant - Lori D. Jarvis Registrar; **2)**, Defendant - Lora L. Freehling Registrar; **3)**, Defendant - Kathleen Culberson, Notary Public; **4)**, Defendant – Bret Witkowski, Treasurer; **5)**, Defendant – Shelly Weich, Treasurer; **6)**, Defendant – Board of Commissioner; **7)**, Defendant – Attorney Mckinley R. Elliott; **8)**, Defendant – Attorney Donna B. Howard; **9)**, Defendant – Attorney James McGovern; **10)**, Defendant – Berrien County Government; **11)**, Defendant – Bret Witkowski, in his Individual capacity; **12).** Defendant – Hon. Mayfield C.J; **13).** Defendant – Hon. Gary J. Bruce F.C.J; **14).** Defendant – Hon. Alfred M. Butzbaugh, F.C.J; **15).** Defendant – Berrien Court Trial Court.

Given that, it has been over two weeks since Plaintiff made the request with the District Court's Clerk for the Summons-(ECF No.147), so Plaintiff could serve Defendant –Sharon

Tyler, Clerk of Berrien County Government. Plaintiff humbly and respectfully set forth this Motion for clarification for the Summons.

### **ARGUMENT**

**First**, Plaintiff contends given that, the Defendant –Sharon Tyler, Clerk of Berrien County Government willful rejections of his Served Fifteen-Summonses and with the Fifteen-Copies of Third Complaint-(ECF No.36) on behalf of the Defendant Berrien County Government and Its officials and Defendant – Bret Witkowski also in His Individual Capacity:

**1)**, Defendant - Lori D. Jarvis Registrar; **2)**, Defendant - Lora L. Freehling Registrar; **3)**, Defendant - Kathleen Culberson, Notary Public; **4)**, Defendant – Bret Witkowski, Treasurer; **5)**, Defendant – Shelly Weich, Treasurer; **6)**, Defendant – Board of Commissioner; **7)**, Defendant – Attorney Mckinley R. Elliott; **8)**, Defendant – Attorney Donna B. Howard; **9)**, Defendant – Attorney James McGovern; **10)**, Defendant – Berrien County Government; **11)**, Defendant – Bret Witkowski, in his Individual capacity; **12).** Defendant – Hon. Mayfield C.J; **13).** Defendant – Hon. Gary J. Bruce F.C.J; **14).** Defendant – Hon. Alfred M. Butzbaugh, F.C.J; **15).** Defendant – Berrien Court Trial Court.

Plaintiff’s pending ‘Emergency Motion for Clarification-(ECF No.159), entitled, “‘EXPEDITED CONSIDERATION REQUESTED’ ‘PLAINTIFF’S EMERGENCY MOTION FOR, CLARIFICATION ON DEFENDANTS’ WILLFUL REJECTIONS OF SERVED SUMMONSES WITH COMPLAINT”, that is still pending before this court, which is causing Plaintiff’s uncertainty.

**Second**, given that it has been over two weeks since Plaintiff made the request with the District Court’s Clerk for the Summons-(ECF No.147), so Plaintiff could serve Defendant – Sharon Tyler, Clerk of Berrien County Government. Plaintiff humbly and respectfully seeks an update on the Summons, for Defendant –Sharon Tyler, Clerk of Berrien County Government.

### **Relief Requested**

For the reasons articulated therein, Plaintiff humbly and respectfully request and hope that, it will please this Your Honorable Court, to grant Plaintiff Clarification or an update and set forth an Order regarding issuing of the Summons, for Defendant –Sharon Tyler, Clerk of Berrien County Government.

Respectfully Submitted,

Dated: April 12, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.

### **CERTIFICATE OF RULE COMPLIANCE**

This brief complies with the word limit of L. Civ. R. 7.3(b)(i) because it contains 779 words, excluding the parts exempted by L. Civ. R. 7.3(b)(i). The word count was generated using Microsoft Word 2013.

Respectfully Submitted,

Dated: April 12, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.

**CERTIFICATE OF SERVICE**

The undersigned states that on the 12<sup>st</sup> day of April 2024, a duplicate original of Plaintiff's, "Motion for Clarification and Order for New Defendants' summonses (ECF No.147)", was filed with the Clerk of the Court, using the ECF System, which will provide electric notice to the parties of record, and I have emailed/mailed by U.S. Postal Service the same to non-ECP participants.

Respectfully Submitted,

Dated: April 12, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.

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Plaintiff- Appellant

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**CERTIFICATE REGARDING COMPLIANCE WITH LCivR 7.1(d)**

**For,  
MOTION FOR CLARIFICATION FOR,  
NEW DEFENDANT’S SUMMONS (ECF No.147)**

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In accordance with W.D Mich. LCivR 7.1(d), the undersigned hereby states that concurrence is not applicable because his “Motion for Clarification and Order for New Defendants’ summons (ECF No.147)”, is about the New Defendant not yet served.

Respectfully Submitted,

Dated: April 12, 2024,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.